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Directive 10-3: Vendor Recovery of Tax on NSF Checks

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Introduction

From time to time, a vendor may make a sale subject to Massachusetts sales or use tax where the purchaser pays by a check that is returned to the vendor unpaid due to insufficient funds in the purchaser's account or is otherwise dishonored by the purchaser's bank, an "NSF check". The purpose of this Directive is to explain how such sales should be reported on the vendor's sales and use tax return.

Issue

What steps may a vendor take to avoid remitting or to recover sales or use tax already remitted on a sale included in its gross receipts where the purchaser pays by an NSF check?

Directive

If a vendor makes a sale and learns from its bank that a check received in payment for the sale is NSF, the vendor may deduct the amount of the NSF check on Line 2 of its sales and use tax return as an "other adjustment" providing that the return has not yet been filed for that period. If a vendor learns from its bank that a check is NSF and the return has already been filed for the period in which the sale was included in the vendor's gross receipts, then the vendor should include the amount of the NSF check on its ST-BDR claim for that fiscal year. In either situation, if the vendor later recovers on the NSF check either from the purchaser or a third party, it must include the amount of the recovery in the gross receipts for that later period.

Discussion

Generally, a vendor must recover tax on bad debts resulting from credit sales by filing form ST-BDR on an annual basis. G.L. c. 64H, § 33 and G.L. c. 64I, § 34. See TIRs 00-3 and 07-3 for the specific rules relating to such claims. Unlike a bad debt relating to a credit sale, a vendor will generally be aware of an NSF check situation within a short period of time following the sale. Under the rules announced in this Directive, a vendor may subtract such a sale from its gross receipts for that period on Line 2 of the return, provided that the return has not yet been filed.

For example, a sales tax vendor required to file monthly that made a sale on April 15th and learned that payment had been made by an NSF check on May 1st, would be allowed to subtract that sale from its gross receipts on the April return, which is due on May 20th. If the vendor becomes aware of the NSF check after May 20th, it must include the sale on Line 6 of its ST-BDR claim for that fiscal year. Vendors may not request adjustments to their gross receipts relating to NSF checks in an audit.

Like a later recovered bad debt for which tax was refunded, if the vendor later recovers on the NSF check either deducted or claimed on an ST-BDR, the vendor must include the amount of that recovery in its gross receipts for that later period. If a vendor uses a check guarantee service or has any other type of insurance that provides for reimbursement of dishonored checks from a third party, the vendor is not permitted to take a credit for that sale on its return or include it on the ST-BDR.

/s/Navjeet K. Bal
Navjeet K. Bal
Commissioner of Revenue

NKB:MTF:ecl

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